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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/941,186	08/28/2001	David Lohr	FSI-83	5985

26875 7590 07/30/2003

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CINCINNATI, OH 45202

EXAMINER

PHAM, MINH CHAU THI

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 07/30/2003

8

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/941,186

Applicant(s)

LOHR ET AL

Examiner

PHAM

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1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- Amendment A*
- 1) ☒ Responsive to communication(s) filed on 05/22/03
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 and 13-17 is/are pending in the application.
- 4a) Of the above claim(s) 1-10 and 13-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) 1-10 and 13-17 is/are allowed.
- 6) ☒ Claim(s) 1-10 and 13-17 is/are rejected.
- 7) ☐ Claim(s) 1-10 and 13-17 is/are objected to.
- 8) ☐ Claim(s) 1-10 and 13-17 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 05/22/03 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on 05/22/03 is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. 09/941,186.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 09/941,186
- 4) ☐ Interview Summary (PTO-413) Paper No(s) 09/941,186
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: Amendment A

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***Claim Rejections - 35 USC § 103***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-10 and 13-17 are again rejected under 35 U.S.C. 103(a) as being unpatentable over Hugh (6,117,687; Figs. 1, 5 & 6; col. 2, lines 41-58; col. 6, line 66 through col. 7, line 20; col. 8, line 58 through col. 9, line 24), in view of any one of Nagafune et al (5,827,339; Abstract; 3-5 in Fig. 1; col. 2, lines 31-36 and line 56 through col. 3, line 11; col. 3, lines 49-57), Kudirka et al (4,737,173; Abstract; 20, 30, 40 & 70 in Fig. 1; col. 2, lines 14-33 and line 51 through col. 3, line 7; col. 5, lines 24-29) and Hunter et al (4,559,066; 4 & 7 in Fig. 1; col. 2, line 59 through col. 3, line 20; col. 3, lines 44-68; col. 4, lines 23-33).

Hugh discloses a controlled atmosphere incubator comprising a heater, a cabinet in thermal communication with the heater and surrounded by top, bottom, rear and side walls with an opening, an outer door pivotally mounted to the front side, a blower mounted within the cabinet, a plenum formed in the chamber and providing an air circulation path through the chamber and the plenum being partially formed by a plate mounted across the chamber between the inlet and outlet of the blower, and an HEPA filter attached to the inlet of the blower. Claims 1-10 and 13-17 differ from the disclosure of Hugh in that the apparatus comprises a VOC filter removably attached to the inlet of the blower. Any one of Nagafune et al, Kudirka et al and Hunter et al disclose a chemical filter attached to the blower. Nagafune et al disclose a chemical filter and

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an HEPA filter attached to the fan of a clean dry air generating apparatus and the chemical filter removes chemical mists and foreign materials of few microns level through the chemical filter.

Kudirka et al disclose a first carbon filter and the second carbon filter and an HEPA filter mounted on the blower of a room air treatment system. Both first and second chemical carbon filters remove chemical fumes or impurities which give rise to unpleasant odors. Kudirka et al further disclose the chemical filter comprising of activated carbon. Hunter et al disclose a tubular filter cartridge which has layers of granular sorbent bed and the typical sorbents can be activated carbon, molecular sieves, activated alumina, soda lime or silica gel. The sorbent material is packed in a tube of metal or plastics material closed at the lower end by an end cap and at the upper end by a disc. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to adopt a chemical filter as taught by any one of Nagafune et al, Kudirka et al and Hunter et al in the incubator of Hugh since the chemical filter would effectively removes any undesirable chemical vapors, odors and smells from the air circulation of the incubator.

### ***Response to Arguments***

3. Applicant's arguments filed on May 22, 2003 have been fully considered but they are not persuasive.

Applicant argues that none of the secondary references such as Nagafune, Kudirka and Hunter discloses "a VOC filter in an incubator". The Examiner points out that the primary

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reference does disclose a controlled atmosphere incubator. These secondary references are used to show the limitation of a VOC filter which can be installed in the controlled atmosphere incubator of Hugh since it is well-known in the art that the chemical filter would effectively removes any undesirable chemical vapors, odors and smells. In addition, the limitation “incubator” is only disclosed in the preamble of the claims. In response to Applicant’s arguments, the recitation that has not been given patentable weight because it has been held that a preamble is denied the effect of a limitation where the claim is drawn to a structure and the portion of the claim following the preamble is a self-contained description of the structure not depending for completeness upon the introductory clause. Kropa v. Robie, 88 USPQ 478 (CCPA 1951).

Applicant further argues that the independent claims recite “a VOC filter removably attached to the inlet of the blower” or “Applicant positions the filters before the blower”. The Examiner respectfully points out that the primary reference Hugh does disclose a filter (116) disposed before the blower (100) (see 100 & 116 in Fig. 6; col. 4, lines 19-21; col. 8, line 66 through col. 9, line 8). In addition, the secondary reference Kudirka does disclose a chemical filters (20 & 30 in Fig. 1) positioned before the blower (40 in Fig. 1). It would have been obvious to a person having ordinary skill in the art at the time the invention was made to adopt a chemical filter as taught by Kudirka et al in the incubator of Hugh since the chemical filter would effectively removes any undesirable chemical vapors, odors and smells from the air circulation of the incubator.

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4. Applicant's arguments with respect to claims 1-10 and 13-17 have been thoroughly considered but are moot in view of the rejection as discussed above.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh-Chau Pham whose telephone number is (703) 308-1605.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

Applicant's response may be mailed or faxed. However, note that some correspondence may not be faxed, i.e. certain correspondence requiring an original signature and certain drawing changes (see MPEP 502.01). The fax number for Technology Center 1700 for After Final

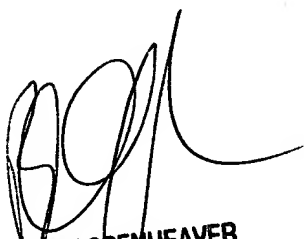
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communications is (703) 872-9311. If the response is faxed, a duplicate mailed copy of the facsimile transmission is not required and will only serve to delay processing of your application.



MCP

July 21, 2003



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